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Paper No. 5

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JUN 20 2002

OFFICE OF PETITIONS

In re Application of :
Tsen, et al. :
Application No. 09/994,439 : DECISION REFUSING
Filed: November 26, 2001 : STATUS UNDER 37 CFR
Atty. Dkt. No. 06128-266001 : 1.47(a)
Title: SHOE :

This is in response to the petition under 37 CFR 1.47(a),
filed April 8, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date
of this decision to reply, correcting the below-noted
deficiencies. Any reply should be entitled "Request for
Reconsideration of Petition Under 37 CFR 1.47(a)," and should
only address the deficiencies noted below, except that the
reply may include an oath or declaration executed by the non-
signing inventor. Failure to respond will result in
abandonment of the application. Any extensions of time will
be governed by 37 CFR 1.136(a).

The above-identified application was filed November 26, 2001
without an executed oath or declaration and naming Jimmy
Tsen, Jason L. Nevans, Jonathan Beardsley, and Matthew Sumner
as joint inventors. Accordingly, on December 12, 2001, a
Notice to File Missing Parts of Nonprovisional Application
("Notice") was mailed, requiring an executed oath or
declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof
that the non-signing inventor cannot be reached or refuses to
sign the oath or declaration after having been presented with
the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35
U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a
statement of the last known address of the non-signing
inventor.

Petitioner lacks item (2) set forth above.

As to item (2), the declaration submitted herewith is
unacceptable as it fails to comply with 37 CFR 1.63 or 1.64
has been presented. Specifically, the declaration fails to
set forth the citizenship of Jimmy Tsen.

Any renewed petition must be accompanied by an oath or
declaration in compliance with 37 CFR 1.63 or 1.64.

Further correspondence with respect to this matter should be
addressed as follows:

Application No. 09/994,439

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Alesia M. Brown for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy